

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FF SUPPLY, LLC, d/b/a/ ZENITH INSURED
CREDIT,

Plaintiff,

-against-

BF INTERNATIONAL CO., LTD.,

Defendant.

No. 19-cv-3557 (CM)

DECISION AND ORDER DENYING PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT

McMahon, C.J.:

On May 12, 2020, Plaintiff FF Supply, LLC, d/b/a Zenith Insured Credit, moved for a default judgment in this breach of contract action against Defendant BF International Co., Ltd., a corporate entity based in South Korea. (Dkt. No. 30.) In addition, Plaintiff seeks permission to serve notice of its motion for default by email, as opposed to mail or by the process required under the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. (*See* Dkt. No. 31, Louzon Decl. ¶ 13.)

Neither request is granted.

Before a default judgment may issue, Plaintiff must comply with the local rules of the Southern District of New York and this Court's individual practices. Local Rule 55.1 requires a plaintiff seeking a default judgment to obtain a certificate of default from the Clerk of Court before making their motion. A review of the docket indicates that, while Plaintiff has filed the notice of default on this Court's docket, it has yet to obtain a certificate of default from the clerk. For that reason alone the application must be denied.

The court is open to a motion to serve the defendant with a copy of the notice of motion for a default judgment by alternative means. However, I need to know, per Federal Rule of Civil Procedure 4(f)(3), whether service by email is available and likely to be received by the South Korean defendant. *See, e.g., Zhang v. Baidu.com, Inc.*, 932 F. Supp. 2d 561, 568 (S.D.N.Y. 2013). I must also be assured, as required by Supreme Court precedent, that South Korea does not object to service via email, and that such service is permissible under South Korean law. *See Water Splash, Inc. v. Menon*, 137 S.Ct. 1504, 1512, 197 L.Ed.2d 826 (2017). Plaintiff's request for permission to effectuate alternative service does not address those issues.

Therefore, the motion for default is premature, and the request for service by email lacks sufficient support to be granted. Plaintiff's request for a default judgment is **DENIED** without prejudice.

SO ORDERED.

Dated: August 24, 2020

A handwritten signature in black ink, appearing to read "Peter M. Hall", written in a cursive style.

Chief Judge

BY ECF TO ALL PARTIES